

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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INDIRA BOWEN, Individually, and INDIRA BOWEN,
On behalf of her minor children, RAYLIN
FAIRCLOUGH and MIA BOWEN,

ECF Case

Plaintiffs,

- against-

THE COUNTY OF WESTCHESTER, TOWN OF
GREENBURGH and POLICE OFFICERS JOHN
DOES 1-10, in their Individual and Official Capacities,

Defendants.
-----X

**ANSWER TO
PLAINTIFFS' FIRST
AMENDED COMPLAINT**
07 Civ. 6277 (KMK)(LMS)

Defendant, Westchester County, by its statutory attorney, Charlene M. Indelicato,
Westchester County Attorney, by Matthew I. Gallagher, Senior Assistant County
Attorney, of Counsel, answers Plaintiffs' First Amended Complaint ("Complaint") as
follows:

Nature of Action

1. To the extent the allegations in paragraph 1 of the Complaint characterize
the proceeding and/or constitute conclusions of law, Defendant makes no answer and
respectfully refers all questions of law to this Honorable Court.

Jurisdiction and Venue

2. To the extent the allegations in paragraph 2 of the Complaint characterize
the proceeding and/or constitute conclusions of law, Defendant makes no answer and
respectfully refers all questions of law to this Honorable Court.

3. To the extent the allegations in paragraph 3 of the Complaint characterize the proceeding and/or constitute conclusions of law, Defendant makes no answer and respectfully refers all questions of law to this Honorable Court.

Parties

4. Denies knowledge or information sufficient to form a belief as to the truth and/or accuracy of the allegations in paragraph 4 of the Complaint.

5. Denies knowledge or information sufficient to form a belief as to the truth and/or accuracy of the allegations in paragraph 5 of the Complaint.

6. Denies knowledge or information sufficient to form a belief as to the truth and/or accuracy of the allegations in paragraph 6 of the Complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth and/or accuracy of the allegations in paragraph 7 of the Complaint except insofar as the allegations contained therein constitute questions of law to which Defendant makes no answer and respectfully refers all questions of law to this Honorable Court.

8. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in paragraph 8 of the Complaint except admits that the County of Westchester is a municipal corporation existing under the laws of the State of New York and that the Westchester County Department of Public Safety and the Westchester County Department of Probation are departments of the County.

9. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in paragraph 9 of the Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in paragraph 10 of the Complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in paragraph 11 of the Complaint except insofar as the allegations contained therein constitute questions of law to which Defendant makes no answer and respectfully refers all questions of law to this Honorable Court.

12. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in paragraph 12 of the Complaint except insofar as the allegations contained therein constitute questions of law to which Defendant makes no answer and respectfully refers all questions of law to this Honorable Court.

Notices of Claim

13. Denies knowledge or information sufficient to form a belief as to the truth and/or accuracy of the allegations in paragraph 13 of the Complaint except admit that Plaintiffs served a notice of claim upon Defendant.

14. Denies knowledge or information sufficient to form a belief as to the truth and/or accuracy of the allegations in paragraph 14 of the Complaint and respectfully refer this Honorable Court to the cited document(s) as best evidence of its/their content, intent and/or purport.

15. Denies knowledge or information sufficient to form a belief as to the truth and/or accuracy of the allegations in paragraph 15 of the Complaint and respectfully refer this Honorable Court to the cited document(s) as best evidence of its/their content, intent and/or purport.

16. Denies knowledge or information sufficient to form a belief as to the truth and/or accuracy of the allegations in paragraph 16 of the Complaint except admit that

more than thirty days have elapsed since Plaintiffs served their notice of claim and that Defendant has not made any payment to Plaintiffs.

17. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in paragraph 17 of the Complaint except insofar as the allegations contained therein constitute questions of law to which Defendant makes no answer and respectfully refers all questions of law to this Honorable Court.

Facts Underlying Plaintiffs' Claims for Relief

- 18. Denies the allegations in paragraph 18 of the Complaint.
- 19. Denies the allegations in paragraph 19 of the Complaint.
- 20. Denies the allegations in paragraph 20 of the Complaint.
- 21. Denies the allegations in paragraph 21 of the Complaint.
- 22. Denies the allegations in paragraph 22 of the Complaint.
- 23. Denies the allegations in paragraph 23 of the Complaint.
- 24. Denies the allegations in paragraph 24 of the Complaint.
- 25. Denies the allegations in paragraph 25 of the Complaint.
- 26. Denies the allegations in paragraph 26 of the Complaint.
- 27. Denies the allegations in paragraph 27 of the Complaint.
- 28. Denies the allegations in paragraph 28 of the Complaint.
- 29. Denies the allegations in paragraph 29 of the Complaint.
- 30. Denies the allegations in paragraph 30 of the Complaint.

IN ANSWER TO THE "FIRST CLAIM FOR RELIEF AGAINST
DEFENDANTS WESTCHESTER AND GREENBURGH
FOR VIOLATING ALL PLAINTIFFS' RIGHTS UNDER THE
FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION"

31. With respect to the allegations in paragraph 31 of the Complaint, Defendant repeats its answers to paragraphs 1 through 30 of the Complaint with the same force and effect as if set forth herein at length.

32. Denies the allegations in paragraph 32 of the Complaint.

33. Denies the allegations in paragraph 33 of the Complaint.

34. Denies the allegations in paragraph 34 of the Complaint.

35. Denies the allegations in paragraph 35 of the Complaint.

36. Denies the allegations in paragraph 36 of the Complaint.

37. Denies the allegations in paragraph 37 of the Complaint.

IN ANSWER TO THE "SECOND CLAIM FOR RELIEF
FOR VIOLATING PLAINTIFFS RAYLYN FAIRCLOUGH'S AND
MIA BOWEN'S RIGHT TO BE FREE FROM UNREASONABLE
SEARCHES AND SEIZURES UNDER THE FOURTH AND
FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION"

38. With respect to the allegations in paragraph 38 of the Complaint, Defendant repeats its answers to paragraphs 1 through 30 of the Complaint with the same force and effect as if set forth herein at length.

39. Denies the allegations in paragraph 39 of the Complaint.

40. Denies the allegations in paragraph 40 of the Complaint.

IN ANSWER TO THE "THIRD CLAIM FOR RELIEF
FOR VIOLATING PLAINTIFFS RAYLYN FAIRCLOUGH'S AND
MIA BOWEN'S RIGHT TO BE FREE FROM UNREASONABLE
SEARCHES AND SEIZURES UNDER ARTICLE ONE, SECTION
TWELVE, OF THE NEW YORK STATE CONSTITUTION"

41. With respect to the allegations in paragraph 41 of the Complaint, Defendant repeats its answers to paragraphs 1 through 30 of the Complaint with the same force and effect as if set forth herein at length.

42. Denies the allegations in paragraph 42 of the Complaint.

43. Denies the allegations in paragraph 43 of the Complaint.

IN ANSWER TO THE "FOURTH CLAIM FOR RELIEF
FOR FALSE IMPRISONMENT"

44. With respect to the allegations in paragraph 44 of the Complaint,

Defendant repeats its answers to paragraphs 1 through 30 of the Complaint with the same force and effect as if set forth herein at length.

45. Denies the allegations in paragraph 45 of the Complaint.

46. Denies the allegations in paragraph 46 of the Complaint.

IN ANSWER TO THE "FIFTH CLAIM FOR RELIEF
FOR VIOLATING PLAINTIFFS RAYLYN FAIRCLOUGH'S AND
MIA BOWEN'S RIGHT TO BE FREE FROM UNREASONABLE
FORCE UNDER THE FOURTH AND FOURTEENTH AMENDMENTS
TO THE UNITED STATES CONSTITUTION"

47. With respect to the allegations in paragraph 47 of the Complaint,

Defendant repeats its answers to paragraphs 1 through 30 of the Complaint with the same force and effect as if set forth herein at length.

48. Denies the allegations in paragraph 48 of the Complaint.

49. Denies the allegations in paragraph 49 of the Complaint.

IN ANSWER TO THE "SIXTH CLAIM FOR RELIEF FOR ASSAULT"

50. With respect to the allegations in paragraph 50 of the Complaint,

Defendant repeats its answers to paragraphs 1 through 30 of the Complaint with the same force and effect as if set forth herein at length.

51. Denies the allegations in paragraph 51 of the Complaint.

52. Denies the allegations in paragraph 52 of the Complaint.

IN ANSWER TO THE "SEVENTH CLAIM FOR RELIEF FOR BATTERY"

53. With respect to the allegations in paragraph 53 of the Complaint, Defendant repeats its answers to paragraphs 1 through 30 of the Complaint with the same force and effect as if set forth herein at length.

54. Denies the allegations in paragraph 54 of the Complaint.

55. Denies the allegations in paragraph 55 of the Complaint.

IN ANSWER TO THE "EIGHTH CLAIM FOR RELIEF FOR NEGLIGENCE"

56. With respect to the allegations in paragraph 56 of the Complaint, Defendant repeats its answers to paragraphs 1 through 30 of the Complaint with the same force and effect as if set forth herein at length.

57. Denies the allegations in paragraph 57 of the Complaint.

58. Denies the allegations in paragraph 58 of the Complaint.

59. Denies the allegations in paragraph 59 of the Complaint.

60. Denies the allegations in paragraph 60 of the Complaint.

AS AND FOR A FIRST DEFENSE

61. Plaintiffs fail to state any claim for which relief can be granted.

AS AND FOR A SECOND DEFENSE

62. Certain claims of Plaintiffs are barred by the statute of limitations.

AS AND FOR A THIRD DEFENSE

63. Punitive damages are unavailable against the County of Westchester.

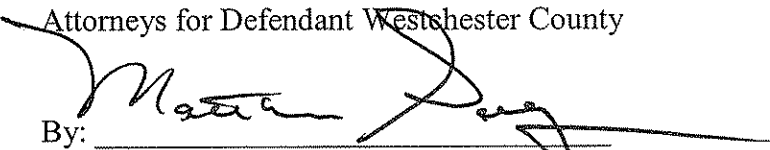
AS AND FOR A FOURTH DEFENSE

64. Plaintiff(s) failed to comply with New York General Municipal Law § 50.

WHEREFORE, Defendant demands judgment dismissing the Complaint together with the costs and disbursements of this action and other fees allowable by law.

Dated: White Plains, New York
April 29, 2008

CHARLENE M. INDELICATO
Westchester County Attorney
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